

EXHIBIT 1

Charges, Dispositions, Sentences

Title: CITY OF SIOUX CITY vs TERRELL, MEGAN K

Case: 03971SCNTDO157736 (WOODBURY)

Citation Number:

Defendant: SURBER, MEGAN KCount 01Charge

Charge: SC/8.24.430 **Description:** THEFT 5TH DEGREE
Offense Date: 10/21/1993 **Arrest Date:** **Against Type:**
DPS Number:

Adjudication

Charge: SC/8.24.430 **Description:** THEFT 5TH DEGREE
Adj.: DNU-GUILTY **Adj.Date:** 10/28/1993
Adj.Judge: MYERS, JEFFREY T
Comments:

Sentence

Charge: SC/8.24.430 **Description:** THEFT 5TH DEGREE
Sentence Date: 11/12/1993 **Sentence:** FINE
Appeal: **Sen.Judge:** ,
Facility Type: **Attorney:**
Restitution: **Drug:** **Extradition:**
Lic.Revoked: **DDS:** **Batterer:**
Fine Amount: **Duration:**
Comment:



Financials

Title: CITY OF SIOUX CITY vs TERRELL, MEGAN K

Case: 03971SCNTDO157736 (WOODBURY)

Citation Number:

<u>Summary</u>	<u>Orig</u>	<u>Paid</u>	<u>Due</u>
COSTS	25.00	25.00	0.00
FINE	50.00	50.00	0.00
SURCHARGE	15.00	15.00	0.00
RESTITUTION	0.00	0.00	0.00
OTHER	0.00	0.00	0.00
	<hr/>	<hr/>	<hr/>
	\$90.00	\$90.00	\$0.00
SUPPORT/ALIMONY	N/A	0.00	N/A

<u>Detail</u>	<u>Payer/ Payee</u>	<u>Obligor/ Obligee</u>	<u>Orig Amount</u>	<u>Pd. Amount</u>	<u>Date</u>	<u>Receipt</u>	<u>Type</u>
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EXHIBIT 2

00001

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF IOWA
3 WESTERN DIVISION
4

THE SECURITY) NO. 5:11-cv-0417-DEO
5 NATIONAL BANK OF)
SIOUX CITY, IOWA,) VIDEOTAPED
6 as conservator for) DEPOSITION OF
J.M.K., a Minor,) MEGAN SURBER

7)
Plaintiff,)

8)
vs.)

9)
ABBOTT LABORATORIES,)

10)
)

11 Defendant.)
)

12)
)

13)
)

14)

15

16

17 The Videotaped Deposition of
18 MEGAN SURBER taken at 1128 Historic 4th
19 Street, Sioux City, Iowa, on the 5th day
20 of July, 2012, commencing at 9:12 a.m.

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22

23

24

25

Surber, Megan

Page 1



00038

1 A. No. They hired their own lawyers,
2 or whatever they do.

3 Q. And have you heard of a Midland
4 Funding?

5 A. Yeah.

6 Q. Is that another judgment against
7 you?

8 A. That's with the same company,
9 so --

10 Q. Same company?

11 A. So obviously that's selling it --
12 I --

13 Q. Same debt?

14 A. Yes, same debt.

15 Q. And when was that judgment entered,
16 do you remember?

17 A. Just recently. In the last three
18 months.

19 Q. Okay. Have you ever been
20 arrested? You have never been arrested?

21 A. Yes.

22 Q. I changed my question in the
23 middle, so let me just ask you as a
24 yes-or-no question. Have you ever been
25 arrested?

00039

1 A. Yes.

2 Q. Okay. Do you recall what the
3 initial charge was?

4 MR. RATHKE: I'm going to object
5 to the question on the grounds that it is
6 not likely to lead to the discovery of
7 admissible evidence, but certainly,
8 counsel, you're entitled to inquire about
9 convictions.

10 Q. Sure. And it may, depending on
11 the type of conviction, influence some
12 evidentiary things, given her priors, I'm
13 sure you understand, so go ahead. So you
14 were arrested. Do you remember what the
15 charge was?

16 A. I remember getting charged with a
17 gas and run.

18 Q. A what?

19 A. A gas and go.

20 Q. Oh, okay. Was that theft?

21 A. Theft.

22 Q. Is that what the charge was?

23 A. (Moves head in an affirmative
24 manner.)

25 Q. And when was that?

00040

1 A. I was still in high school,
2 so '93.

3 Q. Were you ever -- did they ever
4 take the case to --

5 A. No.

6 Q. -- to trial? Were you ever
7 convicted in that case? Did you plead
8 something out or anything like that?

9 A. Plead guilty.

10 Q. Other than this conviction in
11 19 -- was the conviction also in 1993?

12 A. I was only in jail for a night.

13 Q. Was that night in jail, was that
14 before or after you pled guilty?

15 A. I got arrested, got booked, stayed
16 there. And then my mother came and got
17 me.

18 Q. Okay. And then at some point
19 after that, you pled guilty to a charge?

20 A. I was guilty from the get-go, but
21 I pled guilty from the get-go.

22 Q. Okay. From the get-go, like, yes,
23 I did it?

24 A. Yes.

25 Q. And they said, okay, one night in

00041

1 jail, and then you were let go?

2 A. Yes.

3 Q. Other than this event in 1993, any

4 other times?

5 A. No.

6 Q. So I think you said you were born

7 in 1974. Does that make you 38?

8 A. Yes.

9 Q. And I won't let that go past this

10 room.

11 A. I don't keep track anymore.

12 Q. All right. And can you just give

13 me the last four digits of your social

14 security number?

15 A. 1216.

16 Q. Okay. And where were you born?

17 A. Sioux City, Iowa.

18 Q. And how many children do you have?

19 A. I have three.

20 Q. And would that -- that's Jeanine

21 and James that we talked about. And then

22 do you have another son?

23 A. Older son, yes.

24 Q. And what's his name?

25 A. Kevin Surber.

EXHIBIT 3

00001

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF IOWA
3 WESTERN DIVISION

4

THE SECURITY) NO. 5:11-cv-0417-DEO
5 NATIONAL BANK OF)
SIOUX CITY, IOWA,)

6 as conservator for) VIDEOTAPED
J.M.K., a Minor,) DEPOSITION OF

7) TROY KUNKEL
Plaintiff,)

8)

vs.)

9)

ABBOTT LABORATORIES,)

10)

)

11 Defendant.)

)

12)

)

13)

14

15

16 The Videotaped Deposition of
17 TROY KUNKEL taken at 1128 Historic 4th
18 Street, Sioux City, Iowa, on the 6th day
19 of July, 2012, commencing at 8:02 a.m.

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24

25



Kunkel, Troy

Page 1

00045

1 Kerns?

2 A. Yes.

3 Q. Are any of your other grandparents

4 alive?

5 A. No.

6 Q. Now do you use recreational drugs

7 like marijuana?

8 A. Yes.

9 Q. Any others?

10 A. I have in the past.

11 Q. Which ones?

12 MR. RATHKE: Ever or --

13 MR. SCANNAPIECO: Ever.

14 MR. RATHKE: In a given time

15 frame.

16 MR. SCANNAPIECO: In the past.

17 MR. RATHKE: I'm going to object

18 to the question in that it's overbroad.

19 MR. SCANNAPIECO: Okay.

20 MR. RATHKE: Go ahead and answer.

21 I guess he wants to know every drug you

22 have ever taken.

23 A. Can I ask why that's -- I -- I'm

24 just asking why -- why it is important.

25 Q. Do you have some problems with --

00046

1 you know, if you see needles, or things
2 like that --

3 A. Well, I don't have problems. I am
4 a diabetic, so I can't really have a
5 problem with needles; but I mean, yes, I
6 have used meth in the past. I mean if you
7 got my file, you know my father was
8 incarcerated for distributing meth.

9 Q. There's not like a -- just so you
10 know, there is not like a master file on
11 you.

12 A. I am -- it's nothing that I'm
13 trying to hide or lie about. I am very
14 open in my past and my drug use and I have
15 nothing to hide about it. I don't want
16 something that I did 15 years ago to be
17 used against me at any point, or
18 because --

19 MR. RATHKE: Or against Jeanine.

20 A. -- or against Jeanine, yeah,
21 because really that -- what I did 15 years
22 ago doesn't, you know, really have nothing
23 to do with her today. But for the record,
24 yes, I have used recreational drugs.

25 Q. Okay. And so marijuana. Do you

00047

1 use that off and on up until today?

2 A. I'm currently sober. But, yes, I
3 was using it on and off up until recently.

4 Q. Were you using it back in 2008?

5 A. No, I wasn't, actually. It
6 wasn't -- I was actually sober for several
7 years until after the Omaha -- it wasn't
8 until we came back from Omaha, and
9 everything, I was -- right before we came
10 back, I made a trip up and -- to get away.
11 And I was really stressed, you know. But,
12 like I said, I had been clean for several
13 years up until that point.

14 Q. So when was the last time you used
15 any other drugs other than marijuana,
16 maybe --

17 A. Gosh, over a year. It has been
18 over a year.

19 MR. RATHKE: Other than marijuana.

20 A. Yeah. I haven't used nothing
21 other than marijuana over a year now. I
22 don't --

23 Q. Okay.

24 A. I don't really drink. I don't --

25 Q. When was the last time you used

00156

1 to really cipher through six years of
2 doctors and medical and being admitted
3 into the hospital for it and -- but I
4 can't recall dates, or nothing like that,
5 to be specific, no.

6 Q. Okay. Now during that -- your
7 time at St. Luke's for when you said you
8 were learning about your condition and
9 when you were in there, checked out and
10 came back, do you recall them ever running
11 any drug tests on you?

12 A. Probably. They do every time.
13 They take pee.

14 Q. Yeah. Okay.

15 A. And there was probably marijuana
16 in there.

17 Q. What did you say?

18 A. There was probably marijuana in
19 there.

20 Q. Okay. So was that -- were you --
21 was that one of the times that you were --
22 around the time you were using it, around
23 April of 2008?

24 A. If it was in there, then, yeah.

25 I -- I mean I don't recall specific use,

00157

1 or nothing, you know. But it could have
2 been -- because, like I said, around '08
3 and before that, I was -- I wasn't doing
4 really nothing. It could have been a -- a
5 slipup. I don't --

6 MR. RATHKE: Okay. Do you have a
7 document to show him on that? I mean the
8 insinuation is they flunked -- that
9 marijuana was found.

10 A. I mean they never told me anything
11 like that. I mean --

12 Q. Okay.

13 A. If the doctor -- because every
14 time I go in for a three-month checkup,
15 the doctor does a UA.

16 Q. Can you please put a --

17 A. He has never -- you know, they've
18 never come to me and said, well, hey,
19 there's marijuana in your system, or
20 nothing like that, you know.

21 Q. Okay.

22 A. I mean they know my past. And I
23 have been very open with my doctors, so --

24 Q. Okay.

25 A. But, like I said, if there was

00158

1 some in there, if I recall, it was at a
2 time that it was very, very little in my
3 life. Very -- I had a lot going on.

4 Q. All right. So let me --

5 A. I might have went to the bar one
6 night with a bunch of friends to celebrate
7 having kids and somebody popped out a
8 joint, you know. That could be the case.
9 But I -- I do know that during this whole
10 beginning part of my diabetes, I wasn't --

11 Q. Okay.

12 A. -- actively --

13 * * * *

14 (Exhibit 20 was marked.)

15 * * * *

16 Q. Okay. So I'm handing you what's
17 been marked as Deposition Exhibit No. 20.
18 It's a two-page document that at the top
19 says St. Luke's Regional Medical Center.
20 The bottom says SLT 131 through 132.
21 Okay? Have you seen this document before?

22 A. Never.

23 Q. Okay. Now if you look at the
24 second page, there is a section there that
25 says Other Tests. And then the first line

00159

1 is Urine Drugs of Abuse. Do you see that?

2 A. Uh-huh (Yes).

3 Q. So then it has different -- it

4 looks like different types of drugs,

5 right? So like cocaine, none detected.

6 Opiates, none detected. Do you see that?

7 A. Yes.

8 Q. And under cannabinoids, it says

9 your patient is presumptive positive for

10 this drug group.

11 A. Uh-huh (Yes).

12 Q. Did anybody talk to you about

13 those results?

14 A. No.

15 Q. Did you remember taking a urine

16 test when you went to the hospital --

17 A. I do.

18 Q. -- in early April?

19 A. I -- well, obviously -- I mean I

20 don't remember it, no, but obviously it

21 did happen.

22 Q. Okay.

23 A. But, like I said, I do recall

24 99 percent of the times I go see a doctor,

25 or anything, they do -- that's one of the

00186

1 barriers in there?

2 A. Yes. Yes. They actually had -- I
3 was actually surprised about that.

4 Q. But in the back, there wasn't; but
5 in this one room, there was?

6 A. Yeah. I was actually surprised
7 about that.

8 Q. Okay. Now you have been arrested
9 before; is that right?

10 A. Since I have been an adult,
11 minimal. Yes, but minimal. I have -- I
12 haven't been arrested since, like, right
13 around the time the kids were born.

14 Q. So you were born in 1983, right?

15 A. Yes.

16 Q. So you were 18 years old around
17 2001, 2000?

18 A. 2000. '99, 2000, yes.

19 Q. Okay. So when you were 18, you
20 were arrested for assault, correct?

21 A. I wasn't even 18 yet.

22 Q. Oh, okay. But were you arrested
23 for assault when you were 17?

24 A. Yes.

25 Q. And were you ever convicted?

00187

1 A. No.

2 Q. Okay. You -- did you plead on any
3 of the charges?

4 A. Did I take a deferred judgment?

5 That was a big ordeal. I don't even
6 really remember -- I got some fines out of
7 it. Judge didn't even really want to do
8 nothing about it because it was screwy
9 from the beginning.

10 Q. Do you know what it was about?

11 A. Wrong place, wrong time. Couple
12 kids I was with that morning pulled a BB
13 gun out on some kids they didn't like. I
14 ended up beating one of the kids up in the
15 car, pretty much, taking the BB gun. And
16 when the cops came, I got caught with the
17 BB gun. And even though the kids that
18 were actually shot at said I wasn't the
19 one that shot at them, I was charged. The
20 cop didn't really want to decipher who did
21 what, and did this, did that, so he's just
22 like you know what, you're all going to
23 jail.

24 Q. Okay.

25 A. So -- you know. And then the

00191

1 their way out. They learn how to balance
2 a budget better, you know, like instead of
3 going out and getting drunk with your
4 paycheck, they make you pay rent.

5 Q. Okay. And how long were you
6 supposed to be in RTF?

7 A. Until I completed the program.

8 Q. Do you know how long the program
9 was?

10 A. You can be out of there in nine
11 weeks, if you do what you need to do.

12 Nine to 10 weeks, if you do what you need
13 to do.

14 Q. How long did you actually stay
15 there?

16 A. Like two months before I walked
17 out. Month and a half, two months.

18 Q. And then they picked you up
19 afterwards, charged you with escape?

20 A. A couple months later, they picked
21 me up and got me for escape, yes.

22 Q. And you pled guilty to that
23 charge?

24 A. Yes.

25 Q. And did they give you a sentence

00192

1 for that?

2 A. Yes.

3 Q. What was the sentence?

4 A. I did a year in Woodbury County

5 for that. Basically for both of them.

6 Because I screwed my sentence up in the

7 RTF, or whatever, they basically gave me a

8 year in county. And I sat 10 months to

9 finish out everything.

10 Q. Okay. And this was between 2004

11 and 2005?

12 A. Yes.

13 Q. Okay. Were you ever arrested for

14 something called illegal dumping on public

15 land?

16 A. Yes, I was.

17 Q. Okay. So -- and was that around

18 sometime in 2007?

19 A. Yes, it was.

20 Q. Okay. And what were you accused

21 of dumping on public land?

22 A. A long story short, we -- it was

23 dump Sunday. And there was probably about

24 a three-mile line at the dump. We got a

25 little irritated and seen a spot where a

EXHIBIT 4

Charges, Dispositions, Sentences

Title: STATE VS KUNKEL, TROY D

Case: 03971 SRCR062687 (WOODBURY)

Citation Number:

Defendant: KUNKEL, TROY D**Count 01****Charge**

Charge: 726.6(5) **Description:** DNU-CHILD ENDANGERMENT/BODILY INJUR (FELD)
Offense Date: 11/10/2003 **Arrest Date:** **Against Type:**
DPS Number: 0688158-02

Adjudication

Charge: 726.6(6) **Description:** DNU - ENDANGERMENT/NO INJURY (AGMS)
Adj.: DNU-GUILTY **Adj.Date:** 06/30/2004
Adj.Judge: HOFFMEYER, DUANE E
Comments:

Sentence

Charge: 726.6(6) **Description:** DNU - ENDANGERMENT/NO INJURY (AGMS)
Sentence Date: 06/30/2004 **Sentence:** COMMUNITY SERVICE
Appeal: **Sen.Judge:** HOFFMEYER, DUANE E
Facility Type: **Attorney:** N
Restitution: N **Drug:** N **Extradition:** N
Lic.Revoked: N **DDS:** N **Batterer:** N
Fine Amount: **Duration:** 20 Hour(s)
Comment: 20 HOURS PER WEEK IF NOT EMPLOYED BY 10/4/04

Sentence

Charge: 726.6(6) **Description:** DNU - ENDANGERMENT/NO INJURY (AGMS)



Sentence Date:	06/30/2004	Sentence:	SUSPEND		
Appeal:		Sen.Judge:	HOFFMEYER, DUANE E		
Facility Type:	P	Attorney:	Y		
Restitution:	N	Drug:	Y	Extradition:	N
Lic.Revoked:	N	DDS:	N	Batterer:	N
Fine Amount:		Duration:	2 Year(s)		
Comment:					

Sentence

Charge:	726.6(6)	Description:	DNU - ENDANGERMENT/NO INJURY (AGMS)		
Sentence Date:	06/30/2004	Sentence:	PROBATION		
Appeal:		Sen.Judge:	HOFFMEYER, DUANE E		
Facility Type:		Attorney:	N		
Restitution:	N	Drug:	N	Extradition:	N
Lic.Revoked:	N	DDS:	N	Batterer:	N
Fine Amount:		Duration:	2 Year(s)		
Comment:					

Sentence

Charge:	726.6(6)	Description:	DNU - ENDANGERMENT/NO INJURY (AGMS)		
Sentence Date:	06/30/2004	Sentence:	RESIDENTIAL FACILITY		
Appeal:		Sen.Judge:	HOFFMEYER, DUANE E		
Facility Type:		Attorney:	N		
Restitution:	N	Drug:	N	Extradition:	N
Lic.Revoked:	N	DDS:	N	Batterer:	N

Fine Amount:
Duration: 9999 Day(s)
Comment:
Sentence
Charge: 726.6(6) **Description:** DNU - ENDANGERMENT/NO INJURY (AGMS)
Sentence Date: 06/30/2004 **Sentence:** SUSPENDED FINE
Appeal: **Sen.Judge:** HOFFMEYER, DUANE E
Facility Type: **Attorney:** N
Restitution: N **Drug:** N **Extradition:** N
Lic.Revoked: N **DDS:** N **Batterer:** N
Fine Amount: 500 **Duration:**
Comment:

Count 02**Charge**

Charge: 708.3(B) **Description:** ASSLT WHILE PARTIC. IN FELONY - 1978 (FEL
Offense Date: 11/10/2003 **Arrest Date:** **Against Type:**
DPS Number: 0688158-01

Adjudication

Charge: 708.3(B) **Description:** ASSLT WHILE PARTIC. IN FELONY - 1978 (FEL
Adj.: DNU-DISMISSED **Adj.Date:** 06/30/2004
Adj.Judge: HOFFMEYER, DUANE E
Comments:

Sentence

Charge: 708.3(B) **Description:** ASSLT WHILE PARTIC. IN FELONY - 1978 (FEL
Sentence Date: 06/30/2004 **Sentence:** DISMISSED
Appeal: **Sen.Judge:** HOFFMEYER, DUANE E

Facility Type:		Attorney:	Y	
Restitution:	N	Drug:	N	Extradition: N
Lic.Revoked:	N	DDS:	N	Batterer: N
Fine Amount:		Duration:		
Comment:				

Count 03Charge

Charge:	908.11	Description:	VIOLATION OF PROBATION - 1985	
Offense Date:	10/25/2004	Arrest Date:		Against Type:
DPS Number:	0688158-03			

Adjudication

Charge:	908.11	Description:	VIOLATION OF PROBATION - 1985	
Adj.:	DNU-GUILTY	Adj.Date:	02/04/2005	
Adj.Judge:	ACKERMAN, JOHN D			
Comments:				

Sentence

Charge:	908.11	Description:	VIOLATION OF PROBATION - 1985	
Sentence Date:	02/04/2005	Sentence:	JAIL	
Appeal:		Sen.Judge:	ACKERMAN, JOHN D	
Facility Type:	J	Attorney:	Y	
Restitution:	N	Drug:	N	Extradition: N
Lic.Revoked:	N	DDS:	N	Batterer: N
Fine Amount:		Duration:	365 Day(s)	

Comment:

Financials

Title: STATE VS KUNKEL, TROY D

Case: 03971 SRCR062687 (WOODBURY)

Citation Number:

<u>Summary</u>	<u>Orig</u>	<u>Paid</u>	<u>Due</u>
COSTS	8140.00	90.00	8050.00
FINE	0.00	0.00	0.00
SURCHARGE	0.00	0.00	0.00
RESTITUTION	0.00	0.00	0.00
OTHER	2939.00	814.00	2125.00
	<hr/>	<hr/>	<hr/>
	\$11079.00	\$904.00	\$10175.00

Make a payment on this case

SUPPORT/ALIMONY	N/A	0.00	N/A
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<u>Detail</u>	<u>Payor/ Payee</u>	<u>Obligor/ Obligee</u>	<u>Orig Amount</u>	<u>Pd. Amount</u>	<u>Date</u>	<u>Receipt</u>	<u>Type</u>
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Charges, Dispositions, Sentences

Title: STATE VS KUNKEL TROY DAVID

Case: 03971 SMSM407131 (WOODBURY)

Citation Number:

Defendant: KUNKEL, TROY D**Count 01****Charge****Charge:** 708.1(1) **Description:** DNU - INTENT TO CAUSE PAIN OR INJURY (SI**Offense Date:** 05/30/2000 **Arrest Date:** **Against Type:****DPS Number:****Adjudication****Charge:** 708.1(1) **Description:** DNU - INTENT TO CAUSE PAIN OR INJURY (SI**Adj.:** DNU-GUILTY **Adj.Date:** 03/15/2001**Adj.Judge:** TOTT, PATRICK H**Comments:****Sentence****Charge:** 708.1(1) **Description:** DNU - INTENT TO CAUSE PAIN OR INJURY (SI**Sentence Date:** 03/15/2001 **Sentence:** FINE**Appeal:** **Sen.Judge:** TOTT, PATRICK H**Facility Type:** **Attorney:** N**Restitution:** N **Drug:** N **Extradition:** N**Lic.Revoked:** N **DDS:** N **Batterer:** N**Fine Amount:** 300 **Duration:****Comment:****Count 02****Charge****Charge:** 708.1(1) **Description:** DNU - INTENT TO CAUSE PAIN OR INJURY (SI

Offense Date: 05/30/2000 **Arrest Date:** **Against Type:**

DPS Number:

Adjudication

Charge: 708.1(1) **Description:** DNU - INTENT TO CAUSE PAIN OR INJURY (SI

Adj.: DNU-GUILTY **Adj.Date:** 03/15/2001

Adj.Judge: TOTT, PATRICK H

Comments:

Sentence

Charge: 708.1(1) **Description:** DNU - INTENT TO CAUSE PAIN OR INJURY (SI

Sentence Date: 03/15/2001 **Sentence:** FINE

Appeal: **Sen.Judge:** TOTT, PATRICK H

Facility Type: **Attorney:** N

Restitution: N **Drug:** N **Extradition:** N

Lic.Revoked: N **DDS:** N **Batterer:** N

Fine Amount: 300 **Duration:**

Comment:

Count 03

Charge

Charge: 708.1(1) **Description:** DNU - INTENT TO CAUSE PAIN OR INJURY (SI

Offense Date: 05/30/2000 **Arrest Date:** **Against Type:**

DPS Number:

Adjudication

Charge: 708.1(1) **Description:** DNU - INTENT TO CAUSE PAIN OR INJURY (SI

Adj.: DNU-DISMISSED **Adj.Date:** 03/15/2001

Adj.Judge: TOTT, PATRICK H

Comments:**Sentence**

Charge:	708.1(1)	Description:	DNU - INTENT TO CAUSE PAIN OR INJURY (SI		
Sentence Date:	03/15/2001	Sentence:	DISMISSED		
Appeal:		Sen.Judge:	TOTT, PATRICK H		
Facility Type:		Attorney:	N		
Restitution:	N	Drug:	N	Extradition:	N
Lic.Revoked:	N	DDS:	N	Batterer:	N
Fine Amount:		Duration:			

Comment:

Charges, Dispositions, Sentences

Title: CITY VS KUNKEL TROY

Case: 03971SCSM449213 (WOODBURY)

Citation Number:

Defendant: KUNKEL, TROY DCount 01Charge**Charge:** SC/5.20.150(2)**Description:** ILLEGAL DUMPING**Offense
Date:** 04/15/2007**Arrest
Date:** **Against Type****DPS
Number:**Adjudication**Charge:** SC/5.20.150(2)**Description:** ILLEGAL DUMPING**Adj.:** GUILTY - NEGOTIATED/VOLUN PLEA **Adj.Date:** 05/02/2007**Adj.Judge:** JARMAN, TIMOTHY T**Comments:**Sentence**Charge:** SC/5.20.150(2)**Description:** ILLEGAL DUMPING**Sentence
Date:** 05/02/2007**Sentence:** FINE**Appeal:****Sen.Judge:** JARMAN, TIMOTHY**Facility
Type:****Attorney:** N**Restitution:** N**Drug:** N **Extradition:****Lic.Revoked:** N**DDS:** N **Batterer:****Fine
Amount:** 65**Duration:****Comment:** TTP 08/15/2007

Financials

Title: CITY VS KUNKEL TROY

Case: 03971SCSMSM449213 (WOODBURY)

Citation Number:

<u>Summary</u>	<u>Orig</u>	<u>Paid</u>	<u>Due</u>
COSTS	50.20	50.20	0.00
FINE	65.00	65.00	0.00
SURCHARGE	20.80	20.80	0.00
RESTITUTION	0.00	0.00	0.00
OTHER	0.00	0.00	0.00
	\$136.00	\$136.00	\$0.00
SUPPORT/ALIMONY	N/A	0.00	N/A

<u>Detail</u>	<u>Payor/ Payee</u>	<u>Obligor/ Obligee</u>	<u>Orig Amount</u>	<u>Pd. Amount</u>	<u>Date</u>	<u>Receipt</u>	<u>Type</u>
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Charges, Dispositions, Sentences

Title: STATE VS KUNKEL TROY

Case: 03971 SRCR065701 (WOODBURY)

Citation Number:

Defendant: KUNKEL, TROY D**Count 01****Charge**

Charge: 719.4(3) **Description:** VOLUNTARY ABSENCE (ESCAPE) - 1978 (SRMS)

Offense Date: 10/14/2004 **Arrest Date:** **Against Type:**

DPS Number: 0725576-01

Adjudication

Charge: 719.4(3) **Description:** VOLUNTARY ABSENCE (ESCAPE) - 1978 (SRMS)

Adj.: DNU-GUILTY **Adj.Date:** 02/03/2005

Adj.Judge: HENSLEY, TODD A

Comments:

Sentence

Charge: 719.4(3) **Description:** VOLUNTARY ABSENCE (ESCAPE) - 1978 (SRMS)

Sentence Date: 02/03/2005 **Sentence:** FINE

Appeal: **Sen.Judge:** HENSLEY, TODD A

Facility Type: **Attorney:** N

Restitution: N **Drug:** N **Extradition:** N

Lic.Revoked: N **DDS:** N **Batterer:** N

Fine Amount: 250 **Duration:**

Comment:

Sentence

Charge: 719.4(3) **Description:** VOLUNTARY ABSENCE (ESCAPE) - 1978 (SRMS)

Sentence Date:	02/03/2005	Sentence:	JAIL		
Appeal:		Sen.Judge:	HENSLEY, TODD A		
Facility Type:		Attorney:	N		
Restitution:	N	Drug:	N	Extradition:	N
Lic.Revoked:	N	DDS:	N	Batterer:	N
Fine Amount:		Duration:	180 Day(s)		
Comment:					

Financials

Title: STATE VS KUNKEL TROY

Case: 03971 SRCR065701 (WOODBURY)

Citation Number:

<u>Summary</u>	<u>Orig</u>	<u>Paid</u>	<u>Due</u>
COSTS	30.00	30.00	0.00
FINE	250.00	250.00	0.00
SURCHARGE	150.00	75.00	75.00
RESTITUTION	0.00	0.00	0.00
OTHER	479.25	110.50	368.75
	\$909.25	\$465.50	\$443.75

Make a payment on this case

SUPPORT/ALIMONY	N/A	0.00	N/A
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<u>Detail</u>	<u>Payor/ Payee</u>	<u>Obligor/ Obligee</u>	<u>Orig Amount</u>	<u>Pd. Amount</u>	<u>Date</u>	<u>Receipt</u>	<u>Type</u>
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Charges, Dispositions, Sentences

Title: STATE VS KUNKEL TROY D

Case: 03971 SRCR054634 (WOODBURY)

Citation Number:

Defendant: KUNKEL, TROY D**Count 01****Charge****Charge:** 124.401(5) **Description:** POSSESSION OF A CONTROLLED SUBSTANCE (**Offense Date:** 07/22/2000 **Arrest Date:** **Against Type:****DPS Number:****Adjudication****Charge:** 124.401(5) **Description:** POSSESSION OF A CONTROLLED SUBSTANCE (**Adj.:** DNU-GUILTY **Adj.Date:** 01/17/2001**Adj.Judge:** JARMAN, TIMOTHY T**Comments:****Sentence****Charge:** 124.401(5) **Description:** POSSESSION OF A CONTROLLED SUBSTANCE (**Sentence Date:** 01/17/2001 **Sentence:** PROBATION**Appeal:** **Sen.Judge:** JARMAN, TIMOTHY T**Facility Type:** **Attorney:** N**Restitution:** N **Drug:** Y **Extradition:** 1**Lic.Revoked:** N **DDS:** N **Batterer:** 1**Fine Amount:** **Duration:** 1 Year(s)**Comment:****Sentence****Charge:** 124.401(5) **Description:** POSSESSION OF A CONTROLLED SUBSTANCE (

Sentence Date: 01/17/2001 **Sentence:** COMMUNITY SERVICE
Appeal: **Sen.Judge:** JARMAN, TIMOTHY T
Facility Type: **Attorney:** N
Restitution: N **Drug:** N **Extradition:** 1
Lic.Revoked: N **DDS:** N **Batterer:** 1
Fine Amount: **Duration:** 70 Hour(s)
Comment:

Count 02Charge

Charge: 908.11 **Description:** VIOLATION OF PROBATION - 1985
Offense Date: 01/10/2002 **Arrest Date:** **Against Type:**
DPS Number: 0557059-02

Adjudication

Charge: 908.11 **Description:** VIOLATION OF PROBATION - 1985
Adj.: DNU-GUILTY **Adj.Date:** 05/23/2002
Adj.Judge: JARMAN, TIMOTHY T
Comments:

Sentence

Charge: 908.11 **Description:** VIOLATION OF PROBATION - 1985
Sentence Date: 05/23/2002 **Sentence:** FINE
Appeal: **Sen.Judge:** JARMAN, TIMOTHY T
Facility Type: **Attorney:** N
Restitution: N **Drug:** N **Extradition:** 1
Lic.Revoked: N **DDS:** N **Batterer:** 1

**Fine
Amount:** 250

Duration:

Comment:

Sentence

Charge: 908.11 **Description:** VIOLATION OF PROBATION - 1985

**Sentence
Date:** 05/23/2002 **Sentence:** JAIL

Appeal: **Sen.Judge:** JARMAN, TIMOTHY T

**Facility
Type:** **Attorney:** Y

Restitution: N **Drug:** N **Extradition:** 1

Lic.Revoked: Y **DDS:** N **Batterer:** 1

**Fine
Amount:** **Duration:** 2 Day(s)

Comment:

EXHIBIT 5

00001

1

2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF MINNESOTA

3 -----X

4 ROCKLAND BURKS and ADRIENNE LAWRENCE,
5 individually and as parents and

6 natural guardians of E.B.,

7 Plaintiffs,

8 vs. Case No.

08-CV-03414-JRT-JSM

9

10 ABBOTT LABORATORIES and
11 MEAD JOHNSON AND COMPANY,
12 LLC,

13

Defendants.

14

-----X

15

16

17

18 DEPOSITION OF GERALD M. GOLDHABER, Ph.D.

19 New York, New York

20 Tuesday, February 14, 2012

21

22

23

24

25

Reported by:

JOAN WARNOCK

JOB NO. 325549



00090

1

2 Q. Are you familiar with what the cost
3 per feeding basis was of powdered infant
4 formulas versus liquid formulas back in 2002?
5 Any study done there?

6 A. I think I said earlier I know it's
7 cheaper to feed infants powdered formula than
8 liquid. I don't recall the exact statistics,
9 but I know it's cheaper.

10 Q. Okay. That isn't something that
11 went into your report, though?

12 A. No.

13 Q. Do you know what percentage of
14 mothers who use the WIC program -- are you
15 familiar with what WIC is?

16 A. No.

17 Q. Now, can I ask you, you spent most
18 of your -- well, a large part of your career
19 teaching at SUNY Buffalo; right?

20 A. Yes.

21 Q. And why did you leave SUNY Buffalo?

22 A. I had been there 30 years. It was
23 time to retire and move on to full-time
24 consulting.

25 Q. Did you have --

00091

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2 A. There's another reason. The State
3 of New York -- for ten years I had been
4 looking for property in New York City, and
5 the State of New York was in a budgetary
6 crunch from the -- I think the latter part of
7 the decade to the time I retired, and they
8 were offering early retirement incentives.
9 And the year I opted out was 30 years. I got
10 an early retirement incentive, two for one, I
11 think, or something like that, and offer of
12 lifetime medical benefits as an incentive.
13 And we had been looking for property in
14 New York for a few years before that. So it
15 seemed like a good time.

16 Q. You did have a problem at the
17 university, though, correct, with respect to
18 a criminal matter?

19 A. I wouldn't call it a criminal
20 matter. It was a couple of students of mine
21 who were involved in a property we owned in
22 the Cayman Islands.

23 Q. Were you convicted or did you plead
24 guilty to a --

25 A. A misdemeanor, yes.

00092

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2 Q. A misdemeanor in the Cayman Island?

3 A. Yes. I was the property owner.

4 And as the property owner, I was responsible

5 for what happened in the condominium that I

6 owned. That's the basis of that guilty plea.

7 Q. What did you plead guilty to?

8 A. Possession.

9 Q. Possession of?

10 A. Marijuana.

11 Q. And Ecstasy?

12 A. I don't recall that. I know the

13 student had one Ecstasy pill and one other

14 student smoked a joint. I can't smoke

15 anything and have it in my condominium

16 because I have asthma. So I instructed the

17 student if they were going to do that, they

18 should go outside. And I think that's when

19 somebody spotted them.

20 Q. And did the authorities find

21 crystal meth in the condo?

22 A. I don't believe so. I don't even

23 know what that is.

24 Q. There are reports in the Buffalo

25 newspapers about that.

00093

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2 A. I have no idea what that is.

3 Q. And was there cocaine found on the
4 premises?

5 A. Absolutely not.

6 Q. Was there a report of cocaine?

7 A. I don't know.

8 Q. Were there two students?

9 A. Two students.

10 Q. And were they convicted of a crime
11 of any kind?

12 A. I think they were found guilty of
13 possession as well. And they were our
14 houseguests at the time.

15 Q. Possession and use?

16 A. I believe so.

17 Q. Did you plead guilty in the Cayman
18 Islands?

19 A. Yes.

20 Q. And you pled guilty to
21 misdemeanors?

22 A. Yes. These were held in traffic
23 court.

24 Q. And was it for possession and use?

25 A. Not to my -- I don't use anything

00094

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2 like that, so. I can't. I have asthma.

3 Q. And what year was that?

4 A. It was about ten years ago.

5 Q. The newspaper report that I saw was

6 from 2004. Does that sound about right?

7 A. Okay. I think the event was '03.

8 Q. Have you been to the Cayman Islands

9 since then?

10 A. No.

11 Q. Did you sell your condo there?

12 A. Yes. Well, there was a hurricane,

13 and it destroyed most of it, so most of us

14 got out. That's why we sold our property.

15 There was a major hurricane.

16 Q. Did that circumstance have any

17 effect on your benefits, your New York State

18 benefits?

19 A. Absolutely not.

20 Q. Have you done any other teaching

21 since you left the State University of

22 New York at Buffalo?

23 A. No. My intent was after --

24 seriously, counselor, after 30 years, that

25 was --

00095

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2 Q. Had enough?

3 A. I had had enough. And I had been
4 looking to get out of the teaching business
5 for probably about five or ten years prior to
6 that. And I was looking specifically to
7 New York City, because, quite frankly, most
8 of my business is here, and most of my
9 clients, national law firms, including Jones
10 Day, are here.

11 MS. GHEZZI: I'm going to pass the
12 witness at this point.

13 EXAMINATION BY

14 MR. ANSCOMBE:

15 Q. Dr. Goldhaber, we met earlier. I'm
16 Anthony Anscombe, one of the lawyers for Mead
17 Johnson in this case. I actually don't have
18 a whole lot more for you, but I do have a few
19 follow-up questions.

20 Do warnings have a public health
21 rationale?

22 A. I believe they would, yes.

23 Q. What do you mean by that?

24 A. I think that the purpose of a
25 warning is to prevent injury or save lives,